

09-CV-3701 (JPO)

CLASS ACTION

ORDER APPROVING PLAN OF
ALLOCATION

This matter came on for hearing on December 4, 2015 (the “Settlement Hearing”), on Plaintiffs’ motion to determine, among other things, whether the proposed plan of allocation of the Net Settlement Fund (the “Plan of Allocation”) created by the Settlement achieved in the above-captioned class action (the “Action”) should be approved.

The Court, having considered all matters submitted to it at and prior to the Settlement Hearing and otherwise; and it appearing that notice of the Settlement Hearing substantially in the form approved by the Court was mailed to all Class Members or their nominees who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in the *Investor’s Business Daily* and over the *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the proposed Plan of Allocation:

IT IS HEREBY ORDERED THAT:

1. This Order approving the proposed Plan of Allocation incorporates by reference the definitions in the Stipulation and Agreement of Settlement (Dkt. No. 361, the “Stipulation”) and all terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.
2. The Court has jurisdiction to enter this Order approving the proposed Plan of Allocation, and over the subject matter of the Action and all parties to the Action, including all Class Members.
3. Notice of Plaintiffs’ motion for approval of the proposed Plan of Allocation was given to all Class Members or their nominees who or which could be identified with reasonable effort. The form and method of notifying the Class of the motion for approval of the proposed Plan of Allocation satisfied the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and §27 of the Securities Act of 1933, 15 U.S.C. §77z-1(a)(7), as amended by the Private

Securities Litigation Reform Act of 1995, and constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all Persons entitled thereto.

4. Copies of the Notice, which included as an appendix the proposed Plan of Allocation, were mailed to over 13,100 potential Class Members or their nominees and there are no objections to the proposed Plan of Allocation.

5. The Court hereby finds and concludes that the formula for the calculation of the claims of Claimants as set forth in the Plan of Allocation mailed to Class Members provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund among Class Members with due consideration having been given to administrative convenience and necessity.

6. The Court hereby finds and concludes that the Plan of Allocation is, in all respects, fair and reasonable to the Class. Accordingly, the Court hereby approves the Plan of Allocation proposed by Plaintiffs.

7. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

IT IS SO ORDERED.

Dated: December 4, 2015



J. PAUL OETKEN
United States District Judge